

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY W. Hall DATE 9-30-82

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Dear Mr. Story:

I thank you for your letter of October 3rd regarding the "professions clause" in Treaties of Friendship, Commerce and Navigation, and for the accompanying copy of the letter on the subject from the American Chamber of Commerce in Japan to the President of the American Bar Association.

The Department is quite cognizant of the problems encountered by American citizens who desire to practice their professions in foreign countries. The success of its efforts to afford protection to those citizens through treaty provisions depends, of course, upon the willingness of foreign governments to accept such provisions, and, in this country, upon the approval of such provisions by the United States Senate. I sincerely hope that it will be found possible to support the interests of the group of American lawyers now practicing in Japan.

Sincerely yours,

For the Secretary of State:

Harold F. Linder
Deputy Assistant Secretary
for Economic Affairs

Mr. Robert G. Story, Managing Director,
The American Chamber of Commerce in Japan,
San Shin Building, Yurakucho, Chiyoda-ku,
Tokyo, Japan.

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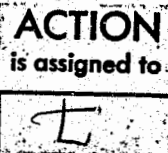
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THE AMERICAN CHAMBER OF COMMERCE IN JAPAN
TOKYO

15 1952
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October 3, 1952

The Honorable Dean Acheson
Secretary of State
Washington 25, D. C.

My dear Mr. Secretary:

At the Annual Meeting of The American Chamber of Commerce in Japan on September 16, unanimous action was taken to request the American Bar Association to reconsider their organization's opposition to the "Professions Clause" in the Treaties of Friendship, Commerce and Navigation - specifically in regard to the treaty being proposed between Japan and the United States.

Enclosed is a copy of our Chamber's letter to the President of the American Bar Association, stating the Chamber's position in this regard.

We urge the full support of the Department of State against the elimination of the "Professions Clause" in Treaties of Friendship, Commerce and Navigation, particularly in any treaty drawn for signature between the United States and Japan.

Thank you for your consideration and action as requested.

Sincerely yours,

THE AMERICAN CHAMBER OF COMMERCE
IN JAPAN

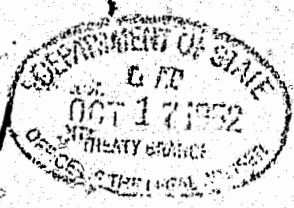
Robert C. Story
Managing Director

Robert C. Story

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The American Chamber of Commerce in Japan



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San Shin Bldg., Yurakucho, Chiyoda-ku

Tokyo

September 16, 1952

Mr. Robert G. Storey
Republic Bank Building
Dallas 1, Texas

Dear Mr. Storey:

The American Chamber of Commerce in Japan, by unanimous vote, has instructed me to call to your attention a most serious problem directly affecting the 34 American lawyers admitted to practice in Japan, and indirectly, the entire American business community in this country. It is probable that the situation, if permitted to go unchecked, will eventually prevent these American attorneys from practicing in Japan, and thus deny the local American business community access to vitally needed American legal services. Therefore, I wish to take this opportunity to outline the matter for your reference so that you may take those steps you deem appropriate to avoid what I believe could become a most unfortunate circumstance.

Provisions of a Treaty of Friendship, Commerce and Navigation presently under discussion between representatives of the United States and Japan, have been described as a standard draft treaty. Such being the case it may be assumed that the treaty under consideration with Japan would be similar to other treaties on the subject and therefore provide generally that nationals of either Government would receive national or most-favored-nation treatment with respect to the practice of professions, including law, accounting, engineering, medicine and the like. This provision is designed to permit American lawyers to practice in Japan and Japanese lawyers to practice in the United States regardless of alienage, provided other qualifications are met. In Japan today, American lawyers can be admitted to practice, without written examinations, on approval by the Supreme Court of Japan.

We have recently learned that in connection with the Israeli FCN Treaty, now before the United States Senate for action, Senator Hickenlooper proposed a blanket reservation of far reaching effect, which would negate the FCN "professions clause".

Mr. Robert G. Storey
September 18, 1952

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As you know, the American Bar Association has also opposed the "professions clause" and has recommended to Congress an amendment to the Constitution which would confine Congress in legislating under treaties to those powers which it has in the absence of a treaty. If the Senate approves the reservation to the Israeli Treaty with respect to the "professions clause", the precedent established will set the pattern for Senate action when the Japanese FCN Treaty comes before it.

National treatment as to professional activities is not new in FCN treaties, having been included in a number of treaties made since 1923. So far as we have been able to determine, the treaty rule on professions has never, since the time it first appeared in a treaty, actually caused any difficulty in the United States. Since it is questionable that any significant number of Japanese would or could take advantage of the "professions clause", the issue seems academic rather than real, insofar as State control over admission to the professions in the United States is concerned.

The net effect of the proposed reservation would be to deny not only lawyers, but doctors, accountants, engineers, and other professional men the privilege of practicing abroad, to the detriment of the foreign American community, particularly the business man, who would be unable to obtain the professional services he needs most to protect his person, property, investments, or other interests.

We question whether the American legal profession in the United States is in danger from foreigners; but whatever the reason for the reservation, it would seem unwise with respect to Japan. The Japanese would not understand it. They would believe that the denial of national treatment with respect to the practice of professions was evidence of a reversion to discriminatory treatment. If the Japanese were not permitted to practice their professions in the United States solely because of their nationality, they would eventually, and understandably, refuse to permit American lawyers to practice in Japan. The field would then be open to those non-Japanese nationals, principally British, whose governments would permit Japanese to practice in their courts.

In consequence, we trust that you will do whatever you think proper to influence the American Bar Association to reconsider its position with respect to its stand on the "professions clause".

Sincerely yours,

THE AMERICAN CHAMBER OF COMMERCE
IN JAPAN

/s/

Sterling W. Fisher
President